

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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RANDALL ARTHUR RADUNZ,

Plaintiff,

v.

BRUCE VON HADEN, EVERETT MUHLAUSEN,  
WENDY J. STURZ, TOM A. PETTRA, PHILLIP C.  
CARRUTHERS, TIMOTHY M. O'SHEA, RYAN GEMOLLE,  
LORI SWANSON, J.B. VAN HOLLEN and ERIK PETERS,

Defendants.  
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MEMORANDUM

07-cv-270-jcs

Because Judge Shabaz will be convalescing from shoulder surgery for an extended period, I have assumed administration of the cases previously assigned to him. In this closed case, plaintiff has written to express concern about the amount of money that he owes under the 1996 Prison Litigation Reform Act for filing an appeal from the dismissal of the action.

The record shows that on July 25, 2007, Judge Shabaz denied plaintiff's request for leave to proceed in forma pauperis on appeal after finding that his appeal was not taken in good faith. Subsequently, the court of appeal dismissed plaintiff's appeal and directed that the clerk of court collect the \$455 appellate filing fee from plaintiff. On October 1, 2007,

in keeping with that directive, the clerk of court sent the warden of plaintiff's institution a letter directing that the \$455 fee be collected from plaintiff's prison account in accordance with 28 U.S.C. § 1915(b).

Later, on November 15, 2007, the United States Court of Appeals recalled the mandate and overturned Judge Shabaz's finding that plaintiff's appeal was not taken in good faith. When it entered this order, the court of appeals directed the district court to assess plaintiff an initial partial payment of the \$455 fee, which it did. Plaintiff paid the initial partial payment on March 18, 2008. Now, however, plaintiff appears to believe that two \$455 fees will be collected from his prison account.

For the record, I am clarifying that plaintiff is required to pay one \$455 fee for filing appeal no. 07-2726 in this case. He does not owe two \$455 fees. I am advising the warden of MCF Faribault, Faribault, Minnesota of this fact so that he can insure that plaintiff's financial records accurately reflect the debt he owes related to his appeal.

Entered this 14<sup>th</sup> day of April, 2008.

BY THE COURT:

/s/

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BARBARA B. CRABB  
District Judge